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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,844	09/11/2000	Robert M. Ames	82,631	5614

7590

03/12/2004

Office of Counsel Code 004
Naval Surface Warfare Center
Carderock Div Hqtrs - David Taylor Model Basin
9500 MacArthur Boulevard
West Bethesda, MD 20817-5700

EXAMINER

BARNES, CRYSTAL J

ART UNIT

PAPER NUMBER

2121

DATE MAILED: 03/12/2004

3

Please find below and/or attached an Office communication concerning this application or proceeding.

2

Office Action Summary

Application No.

09/659,844

Applicant(s)

AMES ET AL.

Examiner

Crystal J. Barnes

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is an initial Office Action upon examination of the above-identified application on the merits. Claims 1-7 are pending in this application.

Priority

2. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application); the disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

3. Applicant's claim for domestic priority under 35 U.S.C. 120 is acknowledged. However, the nonprovisional application (parent application) upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claims 1-7 of this

application. When applicant files a continuation-in-part whose claims are not supported by the parent application, the effective filing date is the filing date of the child CIP. Any prior art disclosing the invention or an obvious variant thereof having a critical reference date more than 1 year prior to the filing date of the child will bar the issuance of a patent under 35 U.S.C. 102(b). Paperless Accounting v. Bay Area Rapid Transit System, 804 F.2d 659, 665, 231 USPQ 649, 653 (Fed. Cir. 1986).

Information Disclosure Statement

4. The information disclosure statement (IDS) submitted on 11 September 2000 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner. An initialed copy of the Form 1449 is enclosed herewith.

Drawings

5. This application lacks formal drawings. The informal drawings filed in this application are acceptable for examination purposes only. When the application is allowed, applicant will be required to submit new formal drawings.

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: reference character "O" or "O" in figure 18 does not appear in the specification. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "46" in figure 17 has been used to designate both three-dimensional solids or volumes on page 13 lines 17-19 and connector of type surface on page 13 lines 19-20. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

8. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. In particular, the claims are directed to a "method" of evaluating and designing structural products. No "system" has been claimed or disclosed.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 1 recites a method for "evaluation and design" of a structural product formed in accordance with geometrical modeling. However, no evaluation or design occurs in the recited steps of the method. It is unclear as to how the steps of establishing multiple topological views, associating properties and analysis with the

topological views, and mapping topological views to a common and unique base geometry constitute a method for "evaluating" and "designing" structural products.

12. Claim 1 recites a method for evaluation and design of a "structural product formed" in accordance with geometrical modeling. It is not clear whether the structural product is an actually formed product (i.e., a manufactured physical product) or is a conceptual geometrical model. If it is the latter, it is not understood how a structural product is "formed" by mere geometrical modeling.

13. Claim 1, line 6, "common and unique base geometry" is contradictory and indefinite. Is the base geometry common or unique? It cannot be both common and unique.

14. Regarding claim 3, the phrase "such" on line 2 renders the claim indefinite because it is unclear what limitations, following the phrase, are part of the claimed invention. See MPEP § 2173.05(d).

15. Regarding claim 3, the terms "points on curves, edges on surfaces, faces on solids" on lines 2-3 renders the claim indefinite because it is unclear whether the limitations are all or alternatively part of the claimed invention.

Claim Rejections - 35 USC § 102

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

17. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by B. Ames et al., "A Framework for Modeling Complex Structures", Hydrodynamic Technology Center Symposium, March 1999, pp. 1-23.

Applicants have submitted, in an information disclosure statement, the printed publication entitled "A Framework for Modeling Complex Structures".

"Any invention described in a printed publication more than one year prior to the date of a patent application is prior art under Section 102(b), even if the printed publication was authored by the patent applicant." *De Graffenried v.*

United States, 16 USPQ2d 1321, 1330 n.7 (Cl. Ct. 1990). "Once an inventor has decided to lift the veil of secrecy from his [or her] work, he [or she] must choose between the protection of a federal patent, or the dedication of his [or her] idea to the public at large." *Bonito Boats, Inc. v. Thunder Craft Boats, Inc.*, 489 U.S. 141, 148, 9 USPQ2d 1847, 1851 (1989).

Conclusion

18. No claims are allowed.

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to in general:

USPN 5,488,692 to Karasick et al.

USPN 5,581,672 to Letcher, Jr.

USPN 5,859,786 to Klein

USPN 6,392,645 B1 to Han et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Crystal J. Barnes whose telephone number is 703.306.5448. The examiner can normally be reached on Monday-Friday alternate Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anil Khatri can be reached on 703.305.0282. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cjb
8 March 2004


ANIL KHATRI
SUPERVISORY PATENT EXAMINER